

# INFORMATION LETTER

Not for  
Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## COMMITTEE REFUSES RULE ON WAGE AND HOUR BILL

### Supporters Are Considering Petition Method of Getting Action on Measure

By a vote of 8 to 6 the House Rules Committee, at a meeting on Friday, declined to grant a rule for the consideration of the wage and hour bill.

The only practical alternative to get House action on the wage and hour bill is by the discharge petition method used last December. Although Mrs. Norton had stated that she would not use the petition procedure, it is now understood that she will, if the Labor Committee requests her to file such a petition.

A petition requires 218 signatures, a majority of the House membership. Under House rules it could not be filed before next week. If completed it must then wait seven legislative days before the second or fourth Monday of the month before it can be brought to the floor. Therefore the earliest date it could be considered would be May 23, which would block the leadership's announced plan to adjourn sine die on June 1st.

Chairman Norton of the House Labor Committee appeared before the Rules Committee on Thursday to urge that the bill reported by the Committee be given a right-of-way insuring its consideration by the House. In her plea for a rule, she cited the 14 to 4 vote by which the bill was reported and in comparing the new bill with the one recommitted last fall called the Rules Committee's attention to the absence of provisions for wage differentials. When questioned by a member of the Rules Committee concerning hour exemptions for seasonal industries, she pointed out that by the payment of time and one-half for all time over 8 hours in a day, an employer is permitted unlimited hours.

On Friday, the Committee heard Representatives Ramspeck, Pace, and Lambertson in opposition to the rule, and a number of other Representatives in favor of the rule.

Under the provisions of a bill (H. R. 9996), passed by the House on April 27th, domestic trade associations would be extended the privilege of collective trade-mark registration, a privilege that foreign associations have held in this country since 1910. The bill would also enable American associations to register and protect their marks in foreign countries.

In explaining the purpose of the bill to the House, Representative Lanham of Texas, the author of the measure, pointed out that "heretofore members of these (American) associations could not get their marks protected in this country, because under our present laws, in making an application for a trade-mark the applicant has to state, first, that he has an exclusive right to the use of the mark."

"Of course," he continued, "the member of an association has no right to the exclusive use of a mark \* \* \* consequently no individual member of the association in the sale

of his products can claim to have the exclusive use of that mark; therefore that mark cannot be registered under our present trade-mark laws."

On April 27th the House Committee on Territories favorably reported a bill (H. R. 10432) designed to amend and clarify the Act of June 14, 1906, entitled "An act to prevent aliens from fishing in the waters of Alaska."

The report of the Committee states that, as the title of the Act indicates, "it was the intent of Congress to prevent aliens from fishing in Alaska waters, but unfortunately language was embraced in section 1 of the Act which was afterward construed by the District Court of Alaska to permit the very thing which the act was evidently designed to prevent."

"The fisheries of Alaska, and in particular the salmon fishery, are a great National and Territorial resource which, like the public lands, ought to be reserved and conserved for the citizens of the United States", the report continued. "Just as the law provides that no person except a citizen of the United States may acquire a homestead on the public domain, so it is only fair and just that the form of natural, national wealth embraced in the fisheries should be reserved likewise to citizens of the United States. Aliens cannot justly complain because they are excluded from this one

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## ADMINISTRATIVE HEARINGS

### Requirements Prescribed in Supreme Court Decision in Stockyard Rates Case

In a decision of considerable interest to canners who are subject to a number of Federal regulatory statutes, the United States Supreme Court on April 25th laid down a series of requirements for administrative hearings and determinations by the Secretary of Agriculture. In the particular case, *Morgan v. United States*, the Secretary of Agriculture had fixed maximum rates to be charged by the Kansas City stockyards pursuant to the Packers and Stockyards Act of 1921. The stockyards contested the validity of the order on the ground that the Secretary had issued it without having heard or considered the evidence or the arguments, and that his sole information had been derived from consulting with employees in the Department of Agriculture. The lower court had refused to consider this ground, and upon the first appeal, the Supreme Court ordered that the defense be examined.

On the trial of this issue, it appeared that a large volume of the testimony had been taken before an employee of the Department, a rather general oral argument had been made to an Acting Secretary of Agriculture, and a brief filed by the stockyards. No brief was filed by the Department. Findings were then privately prepared in the Bureau of Animal Industry, and formed the basis of the order by the Secretary. The Secretary himself had not heard the oral argument, but had merely read the stockyards' brief and dipped into the

record. In addition, he had conferences with officials in the Bureau of Animal Industry.

The Supreme Court set aside the order fixing rates on the ground that there had not been a proper hearing. Without determining whether the Secretary had sufficiently examined the record, the Court stated that

"... a 'full hearing' — a fair and open hearing — requires more than that. The right to a hearing embraces not only the right to present evidence but also a reasonable opportunity to know the claims of the opposing party and to meet them. The right to submit argument implies that opportunity; otherwise the right may be but a barren one. Those who are brought into contest with the Government in a quasi-judicial proceeding aimed at the control of their activities are entitled to be fairly advised of what the Government purposes and to be heard upon its proposals before it issues its final command."

Elsewhere in its opinion the Court remarked that the requirement of a full and adequate hearing

"... goes to the very foundation of the action of administrative agencies entrusted by the Congress with broad control over activities which in their detail cannot be dealt with directly by the legislature. The vast expansion of this field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the legislature shall appropriately determine the standards of administrative action and that in administrative proceedings of a quasi-judicial character the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. These demand 'a fair and open hearing'—essential alike to the legal validity of the administrative regulation and to the maintenance of public confidence in the value and soundness of this important governmental process. Such a hearing has been described as an 'inexorable safeguard.'"

This decision is of considerable importance in indicating that while the Supreme Court may permit a high degree of delegation of authority to administrative officers, as, for example, in the Food and Drugs Act, it will require rigid adherence to the statutory provisions concerning public hearings and court review.

### **TOMATO PASTE CONFERENCE**

#### **Packers Will Have Opportunity to Present Views on Rules after Conference**

Canners unable to attend the trade practice conference for the tomato paste manufacturing industry to be held under the auspices of the Federal Trade Commission in the Palace Hotel, San Francisco, on May 5th, will be given later opportunity to submit suggestions or objections to fair trade practice rules proposed at the conference before adoption by the Commission. After rules have been submitted by the industry at the conference, they will be given preliminary study and review by the Trade Practice Division of the Commission. Thereafter, the proposed rules will be published and public notice will be given to all concerned to submit suggestions or objections. Opportunity also will be given for a further public hearing, which is usually held in Washington. Accordingly, those canners who are unable to attend the San Francisco conference will be afforded every opportunity to consider the proposed rules and to make suggestions or objections concerning them. Further announcements concerning this conference will be published from time to time in the INFORMATION LETTER.

Commissioner William A. Ayres will preside at the conference which the Commission has invited all members of the industry to attend to consider and propose for establishment, subject to the Commission's approval, fair trade practice rules. Some of the subjects which have been suggested for discussion at the conference are: Misrepresentation as to content and otherwise, including the use of misleading or deceptive photographs, illustrations, or other false or misleading representations; defamation of competitors and disparagement of their products; substitution of inferior products for those ordered; inducing breach of contract, enticement of competitors' employees; commercial bribery; and price discrimination.

In such trade practice conference no charges are brought against individuals or individual companies. The subjects discussed are intended to relate to unfair practices or methods, not to the persons or firms using them. Their primary purpose is to seek for cooperative methods to bring about fair trade practices and to eliminate trade abuses and trade evils deemed to be detrimental to the industry and to the consuming public.

### **NEW YORK STATE BRANDS**

#### **Newly Enacted Law Designed to Promote Sale of State's Agricultural Products**

A program for advertising and promoting the sale of agricultural products grown and processed in the State of New York, by the use of official State brands to be designed and sold by the State Commissioner of Agriculture for use on New York products, is provided for under a recently enacted amendment to the New York State marketing laws.

The statute directs the Commissioner to design and adopt official brands which may be used on labels and containers of either fresh or processed agricultural commodities to indicate to purchasers that the product was grown in New York. The use of these official brands is not compulsory, but they may be used on any agricultural products grown and processed in the State which comply with the standards set forth in the New York laws and which have been subjected to an official inspection. A fee is to be charged for this inspection. The official brand may be used either alone or in conjunction with the trademark or name which the grower or packer customarily uses.

Labels bearing the official brand will be printed and sold by the Commissioner, or as an alternative growers and packers may rent cuts or dies of the official brand for use in printing their own labels. The proceeds derived from the sale of the labels and the renting of the cuts and dies will be segregated into special funds according to the products on which the labels were used, and each fund will be expended to advertise the product from which it was derived.

The law becomes effective July 1, 1938.

### **Finds Low Cost Budget Recipes Useful**

A relief supervisor of the Farm Security Administration who has a case load of 350 families, has requested the Home Economics Division for enough copies of "Canned Food Recipes for the Low Cost Budget", prepared by the Division, to distribute to each of her clients. The supervisor stated that she considered this publication essential in advising her clients on their proper food utilization program.

# COMMITTEE REFUSES RULE

## ON WAGE AND HOUR BILL

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source of employment which is so peculiarly a part of the natural wealth of the Nation."

The bill would permit aliens who have for the past three years been seasonally engaged in fishing in the waters of Alaska for commercial purposes to continue for a period of three years following enactment of the bill.

A bill (H. R. 8148), which provides that the Robinson-Patman Act shall not apply to purchases of supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, was favorably reported to the House from the Judiciary Committee on April 19th. In reporting the bill the Committee expressed the opinion that it "does not feel that the wholesome purpose of the Robinson-Patman Act will be interfered with by enactment of this bill to make certain that favors in price which are occasionally extended to eleemosynary institutions, because of the character of the institution, do not fall under the ban of the Act".

A Senate Education and Labor subcommittee on April 28th ordered the preparation of a bill incorporating the provisions of Senator Walsh's year-old proposal (S. 2165) to amend the Walsh-Healey Government Contracts Act and Senator Wagner's recently introduced bill (S. 3390) to make the provisions of the National Labor Relations Act applicable to government contract work. S. 2165 was reviewed in the INFORMATION LETTER for April 17, 1937 and S. 3390 in the April 16, 1938 edition.

The subcommittee, composed of Senators Thomas of Utah, Walsh of Massachusetts, Murray of Montana, and Borah of Idaho, will meet again for further discussion and consideration of the subject following the drafting of the composite bill.

Without amendment the House Agricultural Committee on April 18th reported favorably a Senate resolution (S. J. Res. 256) authorizing such annual appropriations as may be necessary for the control of incipient or emergency outbreaks of insect pests or plant diseases. The resolution passed the Senate on March 25th and is in accord with recommendations of the Department of Agriculture. It would amend the resolution passed last year which authorized a \$2,000,000 annual appropriation for control work.

The House Committee on Merchant Marine and Fisheries favorably reported to the House on April 26th a Senate bill (S. 2307) which would provide for the establishment of one or more salmon-cultural stations in the Columbia River Basin in each of the states of Oregon, Washington, and Idaho.

The bill authorizes a \$500,000 appropriation and directs the Secretary of Commerce "(1) to conduct such investigations, and such engineering and biological surveys and experiments, as may be necessary to direct and facilitate conservation of the fishery resources of the Columbia River and its tributaries; (2) to construct, install, and maintain devices in the Columbia River Basin for the improvement of feeding and spawning conditions for fish, for the protection of migratory fish from irrigation projects, and for facilitating free migration of fish over obstructions; and (3) to perform all other activities necessary for the conservation of fish in the Columbia River Basin in accordance with law."

# Dietitians Ask for Home Economics Material

The publicity chairman of the New York State Dietetic Association, which holds its annual meeting early in May at Syracuse, has asked the Home Economics Division to furnish 100 copies of its informative material available for distribution at the meeting.

## SUMMARIES OF FRUIT PROSPECTS

### General Early Season Information Released by Bureau of Agricultural Economics

Summaries of fruit prospects for the season, representing the situation as it appeared on April 1, with available later information on freeze damage since that time, were released under date of April 22 by the Bureau of Agricultural Economics of the Department of Agriculture. Since it is too early to forecast production of fruits, these summaries are intended, the Bureau release stated, to present such general early-season information as may have a bearing upon production for the coming season. Briefs of those summaries in which canners will be interested follow:

**PEACHES**—In California both clingstone and freestone varieties carried a heavy bloom, although rain at blossom time, brown rot, and spring frost injury have reduced the set somewhat. It is yet too early to determine what the final set may be. Floods during the winter damaged important areas of clingstone peaches, and excessive soil moisture in these areas may be detrimental to the prospective crop. In the Pacific Northwest very little winter damage occurred. Indications are that low temperatures the last few days of March did no serious damage. Present prospects are generally favorable although spring rains have delayed early orchard work to some extent. In the Rocky Mountain States the winter was mild, there has been little spring freeze damage, and soil moisture is abundant.

**PEARS**—In California pears were in full bloom in most areas on April 1. The bloom was heavy but it is too early to determine the final set of fruit. Spring work has been delayed by wet weather but orchards, generally, are in good condition and prospects are favorable. Trees in the Pacific Northwest are in good condition. Because of the absence of freezing weather during most of the winter, an unusual amount of winter rain has gone into the soil, and soil moisture conditions are generally excellent. The mild winter, coupled with the rainy weather this spring which has interfered somewhat with early orchard work, have tended to increase the possibility of insect damage later in the season. In the Rocky Mountain States the winter was mild. There has been no spring freeze damage in this area and soil moisture conditions are good. Present prospects are favorable.

**CHERRIES**—Indications on April 1 showed but little winter damage to cherry trees. Fruit buds on April 1 were ahead of normal development in most sections of the eastern commercial cherry-producing States, and there has undoubtedly been severe damage from the early April freezes, especially in New York, Ohio and southern Michigan. In California cherries were in full blossom on April 1. Orchards are reported to be in very good condition but damage from rains at blossom time, and from spring frosts and brown rot injury is still possible; and it is therefore too early to indicate what the ultimate set of fruit may be. In Washington and Oregon the general condition of trees in all districts is reported to be excellent. The winter was unusually mild and winter injury to trees has been slight. Soil moisture conditions are excellent. Considerable apprehension is felt regarding the possibility that insect damage may be heavier than usual because of the mild winter



and wet spring. In Idaho, Colorado and Utah, no spring frost damage has occurred to date, and soil moisture supplies are ample. Prospects are favorable for good crops in 1938.

**CITRUS FRUITS.**—Low temperatures in Florida during December and January resulted in some damage to young citrus trees but very little injury was suffered by trees of bearing age. While rainfall is needed over most of the State, groves have not suffered from lack of moisture to date, and are reported to be in excellent condition. Bloom was unusually heavy over most sections of the State but more than the usual amount of dropping of the newly set fruit is reported. Present prospects are for a good crop from the bloom of 1938 over practically the entire citrus area. Citrus trees in Arizona and Texas are in excellent condition. The bloom was unusually heavy in both States. Delayed harvest of the 1937-38 grapefruit crop in Arizona, however, may have a detrimental effect on the new crop now being set.

**MISCELLANEOUS FRUITS.**—Apricots in California have been subject to the same set of spring weather hazards in most areas as other deciduous fruit crops, and it does not seem probable that production this year will be of bumper-crop proportions. Production appears to have been definitely reduced by spring frosts, and heavy rains during the blossom period interfered with proper pollination and promoted considerable brown rot injury. Plums have mostly passed the period of full blossom except for those plantings located at high elevations. Unless growing factors become too unfavorable, a good crop should develop. Prunes are now breaking into bloom in many areas, and, as is the case with other deciduous fruits, the crop will be subject to the hazards of rain at blossom time, brown rot and spring frosts. Low prices, and a large carry-over from the 1937 crop have tended to make growers somewhat pessimistic, and the incentive to give orchards the proper care may be lacking. Work in orchards has already been delayed because of adverse weather conditions.

### Fruit and Vegetable Market Competition

Carlot Shipments as reported by the Bureau of Agricultural Economics, Department of Agriculture

	Week ending—			Season total to—	
	April 23, 1937	April 23, 1938	April 16, 1938	April 23, 1937	April 23, 1938
<b>VEGETABLES</b>					
Beans, snap and lima.....	216	398	321	5,625	5,625
Tomatoes.....	793	1,231	1,316	8,835	12,347
Green peas.....	274	234	158	1,249	1,873
Spinach.....	361	149	342	7,712	6,369
Others:					
Domestic, competing directly	4,027	3,881	4,892	78,305	81,328
Imports competing—					
Directly.....	11	19	31	761	815
Indirectly.....	16	22	27	1,673	2,330
<b>FRUITS</b>					
Citrus, domestic..	3,159	4,189	4,922	96,373	100,222
Imports.....	8	0	0	117	125
Others, domestic..	671	692	549	19,924	21,646

### Miss Black to Speak in Michigan

Home Economics students at Michigan State College in Lansing will hear Miss Marjorie H. Black, co-director of the Home Economics Division, who has been invited to speak there May 5th. Miss Black also has been invited to speak in May to Extension women of Genesee County at Flint on the annual "Achievement Day" of the Extension group.

### Employment and Prices

The following indexes on employment and prices are the latest now available. For employment and payrolls they are based on the average for 1923-25 as 100 per cent, while for wholesale prices 1926 is taken as 100 per cent.

	Employment			Payrolls		
	Mar. 1938	Feb. 1938	Mar. 1937	Mar. 1938	Feb. 1938	Mar. 1937
All industries.....	81.7	82.2	101.1	73.3	73.2	101.1
Canning.....	75.4	79.2	89.6	74.0	77.7	89.5
<b>Wholesale prices</b>						
	April 16, 1938	April 9, 1938	April 2, 1938	March 26, 1938	April 17, 1937	
	1938	1938	1938	1938	1937	
All commodities...	78.6	78.5	78.8	79.2		87.6
All foods.....	72.3	72.2	72.6	73.1		85.3

### Grocery Chain Sales in March

Daily average sales of chain grocery stores for March were about 4½ per cent below the dollar volume for March, 1937, when they were higher than for any month since June, 1931, according to the Bureau of Foreign and Domestic Commerce. March sales increased about 1½ per cent from February or somewhat more than the usual amount at this season of the year. Sales for the first quarter of the year were about 3½ per cent below those for the same period of 1937.

### Canned Sardine Stocks Low in Philippines

Philippine imports of canned sardines from the United States increased slightly in March, but stocks are still inadequate to meet demand, according to a report of the American trade commissioner at Manila. Imports of Japanese sardines were small during March, and are expected to remain low since dealers appear unwilling to handle them, although they are available at around 60 cents per case lower than the cheapest American brands.

March imports: Cases from United States, 8,000 sardines, 5,400 pilchards, 7,200 salmon, 300 mackerel; cases from Japan, 6,000 sardines, 1,000 pilchards; cases from Europe, 600 sardines.

### Requests from Vienna and New Zealand

From Vienna and New Zealand recently have come requests to the Home Economics Division which can be seen as a result in 1938 of the advertising campaign carried on in 1934 in American women's magazines.

The woman from Vienna, who asked the Division in her letter to aid her in marketing a fine collection of recipes, described herself as "... a middle-aged housewife, no business woman, not young enough to lack experience, and not so old as to be old-fashioned." The New Zealander requested a complete set of the educational material of the Division.

Out of attics, possibly, still come requests based on coupons which were inserted in the newspapers at the time of the radio campaign in 1930.

## CANNED FOOD EXPORTS AND IMPORTS

Canned food exports in March showed some increases over those of March, 1937, in meats, condensed milk, and canned fruits. Decreases are seen in canned vegetables, evaporated milk, and canned fish. Asparagus, beans, apples and apple sauce, peaches, pineapple, and sardines are individual items showing greatest relative decreases. Import trade was considerably below March, 1937, with largest declines in sardines, tuna, crab meat, other canned fish, and canned pineapple. A slight increase is seen in tomato imports.

EXPORTS	March, 1937		March, 1938		Jan.-Mar., 1937		Jan.-Mar., 1938	
	Pounds	Value	Pounds	Value	Pounds	Value	Pounds	Value
Canned meats, total.....	1,369,725	\$369,505	1,582,292	\$533,387	4,143,726	\$1,226,233	4,052,660	\$1,431,189
Beef, corned, roast, boiled, hash, hamburger.....	67,033	17,141	24,702	5,127	215,589	49,301	139,731	42,248
Beef, other.....	273,987	91,718	265,896	95,577	807,550	249,488	597,498	208,561
Pork.....	545,636	171,132	979,195	356,608	2,139,374	713,381	2,648,662	1,017,246
Sausage.....	189,167	49,541	150,132	44,229	465,341	123,146	327,866	94,485
Other.....	293,902	39,973	162,367	31,846	515,872	90,917	338,903	68,649
Canned vegetables, total.....	3,341,693	316,770	2,357,236	207,686	10,669,536	1,068,070	8,389,102	788,957
Asparagus.....	1,134,559	149,101	359,311	51,156	4,598,473	628,251	2,089,045	322,699
Baked beans and pork and beans.....	505,185	30,374	368,719	17,966	1,576,514	83,429	1,365,451	60,836
Corn.....	249,097	19,001	165,567	12,971	499,291	40,288	610,403	47,995
Peas.....	363,643	27,055	443,056	35,812	945,065	63,455	1,224,755	95,398
Soups.....	305,723	29,479	283,880	27,870	777,061	73,703	671,843	68,108
Tomatoes.....	136,066	7,510	114,064	7,477	616,749	34,133	334,630	20,383
Tomato paste.....	58,072	5,237	105,084	8,754	189,901	17,938	471,688	28,396
Tomato juice.....	248,581	15,165	210,382	13,874	456,389	31,766	585,370	39,014
Other.....	340,767	33,848	307,173	31,806	1,010,093	95,107	1,035,917	106,128
Condensed milk.....	226,388	24,987	311,724	34,211	661,422	72,393	1,007,081	101,307
Evaporated milk.....	1,967,560	140,286	1,208,915	95,425	5,876,744	425,954	5,416,158	397,230
Canned fruits, total.....	22,692,731	1,667,042	22,310,807	1,690,992	85,436,521	6,116,642	74,277,944	5,482,852
Apples and apple sauce.....	1,035,454	48,337	570,030	23,558	5,651,543	267,066	2,772,166	125,464
Apricots.....	1,078,085	78,480	2,124,817	150,416	4,544,909	334,928	5,356,173	383,620
Berries, other.....	101,046	11,890	64,431	7,239	356,911	35,605	204,795	23,266
Cherries.....	145,923	18,984	84,708	12,052	472,844	54,967	588,796	67,970
Fruits for salad.....	2,399,627	268,285	3,090,002	344,808	10,369,228	1,140,899	7,457,386	839,752
Grapefruit.....	4,878,542	243,136	5,724,509	386,260	17,619,859	884,159	18,702,593	1,229,471
Loganberries.....	89,543	8,853	43,554	4,181	521,619	45,833	104,050	9,460
Peaches.....	4,316,329	314,640	3,060,861	217,948	16,375,668	1,201,458	12,803,986	899,253
Pears.....	5,570,658	397,766	6,256,269	425,261	22,039,620	1,532,552	22,424,928	1,540,848
Pineapple.....	2,498,650	224,124	785,213	74,060	5,723,896	460,174	2,752,490	257,630
Prunes.....	93,152	9,507	118,200	9,044	363,148	32,866	357,903	30,811
Other.....	101,046	11,890	388,213	36,165	356,911	35,605	752,678	75,307
Canned fish, total.....	11,410,404	1,010,223	7,180,218	965,744	35,774,681	4,001,676	23,040,934	2,639,947
Salmon.....	3,242,455	464,005	3,488,134	645,371	16,344,563	2,662,037	8,250,714	1,433,551
Sardines.....	7,790,599	486,513	3,143,477	216,392	17,946,167	1,101,757	12,653,177	841,559
Shrimp.....	163,075	26,282	213,138	51,953	1,022,899	168,324	1,087,914	231,552
Shellfish, other.....	132,504	22,796	117,944	20,120	245,002	41,693	313,769	46,888
Other.....	81,771	10,627	217,525	31,908	216,050	27,865	735,360	86,397
IMPORTS								
Canned beef.....	7,123,250	704,372	5,650,809	619,082	11,807,605	1,166,985	12,175,205	1,287,280
Condensed and evaporated milk.....	178,865	7,813	33,131	3,325	415,087	18,702	162,953	12,275
Canned fish in oil:								
Sardines.....	4,053,120	549,220	1,508,382	234,046	9,163,157	1,222,899	4,851,713	757,152
Anchovies.....	278,417	93,659	137,040	63,984	653,043	214,632	508,578	237,313
Tuna.....	2,013,491	352,936	494,610	83,338	3,542,900	688,271	980,958	173,624
Other.....	66,188	20,918	77,397	26,204	161,426	49,557	158,157	48,791
Canned shellfish:								
Crab meat.....	1,369,675	436,462	496,919	164,718	2,589,860	831,437	1,213,888	402,200
Clams and oysters.....	60,290	10,451	57,539	10,267	187,297	32,200	154,564	33,347
Lobsters.....	51,758	26,945	47,990	26,307	106,685	46,669	82,439	40,441
Other canned fish.....	3,273,821	229,190	1,152,180	105,161	6,249,228	451,582	4,072,057	352,714
Canned vegetables:								
Peas.....	31,104	2,779	47,644	2,616	98,389	8,967	74,716	5,111
Mushrooms.....	60,102	18,404	59,638	13,693	163,218	47,452	230,916	58,678
Tomatoes.....	4,674,426	192,234	4,976,622	207,012	14,221,258	553,408	12,281,918	508,670
Tomato paste and sauce.....	869,954	63,643	851,548	53,884	2,450,771	172,395	2,319,382	156,437
Other.....	15,980	909	10,465	762	31,789	1,869	46,537	2,892
Canned pineapple, dutiable.....	508,018	23,503	400,582	14,268	1,299,792	55,054	1,354,899	58,450
Philippine islands, free.....					2,378,456	115,144		

## COMPLAINT FILED AGAINST CANNER

### Use of Discriminatory Prices and Prohibited Advertising Allowances Charged

In the first complaint under the Robinson-Patman Act which has dealt directly with selling practices in the canning industry, the Federal Trade Commission on April 16th charged Curtice Brothers Co., of Rochester, New York, with selling at discriminatory prices and granting prohibited advertising allowances in violation of subsections (a) and (d) of the Act.

The complaint does not set forth any specific instances of sales at discriminatory prices. After specifying that the canner sells "to every type of food distributor, jobber, corporate chain, voluntary chain and independent retailer," the complaint alleges generally that the canner has discriminated in price between different competitive purchasers of canned fruits, vegetables, and vegetable products by making sales on the basis of three different price lists, designated "R", "A", and "S", predicated upon the minimum quantity purchased. The "R" list is the price list at which most customers purchase.

The complaint alleges that customers who place minimum orders for 300 cases of the canner's products, shipment to be made in quantities of not less than 50 cases per shipment, are allowed to purchase under the "A" list at prices 2.5 per cent to 8.3 per cent lower than the prices charged under the "R" list. Customers placing minimum orders for 1,000 cases, for shipment in quantities of not less than 250 cases, may purchase under the "S" list at prices 5.1 per cent to 16.6 per cent lower than the "R" list prices. From the allegations of the complaint, it is not clear whether the "A" and "S" lists are phrased in terms of discounts from the "R" list, or whether they are separate lists of prices without reference to "R" list. The complaint specifies that the differentials in price between the various lists are not uniform, and vary not only between different commodities, but also as between different sizes of the same commodity. No particular customers are mentioned nor are discriminatory sales in particular markets charged in detail.

It is further alleged that in some instances customers have been allowed to purchase at the "S" list prices, even though they do not take the required shipments designated for that classification, and that the existence of the various price lists has not been made known to all of the canner's customers with the result that some customers, who would have purchased in larger quantities had they known of the different price lists, have paid the higher prices of the "R" and "A" lists.

The allegations of the complaint concerning the granting of advertising allowances in violation of subsection (d) are exceedingly general—a characteristic of many of the complaints issued under the Robinson-Patman Act—and give no indication of the nature of the allowances claimed to be unlawful. The complaint merely alleges, in substantially the language of the Act, that the canner has discriminated between different purchasers by granting advertising allowances to some customers

"without making such payments or advertising allowances available on proportionately equal terms to all of their said customers competing in the sale and distribution of their said products."

It is charged that the alleged discriminations in price have the effect of lessening, injuring, destroying, and preventing competition between Curtice Brothers Co. and other canners, and between the favored customers and those not so favored. In addition, it is charged that the discriminations tend to create a monopoly in Curtice Brothers Co. and in its favored customers.

An additional complaint issued by the Federal Trade Commission on April 22nd, naming the Master Lock Company of Milwaukee, Wisconsin, as respondent, is of interest because it charges, among other things, that the lock company has discriminated among its purchasers by granting freight allowances to some customers, without granting similar allowances to other competitive customers.

The complaint alleges that the Master Lock Company quotes its prices F.O.B. Milwaukee, but in the case of certain favored customers deducts from the invoice price an amount equal to the freight charges from the factory to the purchaser. The Lock Company is also charged with granting to favored purchasers a 5 per cent discount from the price at which its products are usually sold. This 5 per cent discount and the freight allowance are usually granted to customers whose cumulative annual purchases exceed \$10,000 a year. The complaint alleges, however, that customers who maintain branches are granted the discount and freight allowance on the basis of the total purchases of all branches, even though no individual branch purchases amounts in excess of \$10,000 per year.

This complaint against the Master Lock Company is also interesting because the Federal Trade Commission, contrary to its usual practice, sets forth in detail the names of the favored customers, actual dates of shipments, the names of customers discriminated against, and gives specific facts with reference to different markets in which discrimination is alleged to exist. In its usual complaint, the Commission merely alleges the existence of discrimination in general terms.

### Early Vegetable Prices Advance Temporarily

Unfavorable weather in late March and early April delayed truck crop harvests in southern and western areas and temporarily advanced prices for new potatoes and many of the early vegetables due to seasonal rise in demand, according to the vegetable situation report of April 27 of the Bureau of Agricultural Economics. Increased production of some commodities, and reduced purchasing power of consumers have resulted in lower general prices than a year ago.

Mid-April prices of asparagus, green beans, broccoli, cabbage, cucumbers, eggplant, peppers, and spinach were lower than a month earlier, while prices of other kinds of vegetables were higher.

As compared with a year ago, prices of asparagus, green lima beans, old crop beets, cauliflower, lettuce, onions (at New York City), and western green peas have been higher, while prices of all other vegetables recently have been lower. Prices of a few products, such as cucumbers, peppers, and spinach, have been lower, even though production of the early crops is indicated to be slightly less than production last year.



Complete vegetable acreage reports for all areas are not yet available, but early acreage reports for the country as a whole indicate an increase over last year of approximately 3 per cent in the combined acreage of 20 truck crops for fresh market shipment. In contrast, prospective acreages of 6 important canning vegetables are reported 13 per cent smaller than the planted acreage last year. Sharp acreage decreases are indicated in plantings of cucumbers for pickle, and of sweet corn and tomatoes for canning. The harvested acreage of California spinach for canning, the Bureau said, is expected to be about 40 per cent below that of last year.

### Tomato Imports into United Kingdom

Imports of canned tomatoes into the United Kingdom during the first two months of 1938 totaled 6,716 tons compared with 8,392 tons during the same period of 1937, according to the April report of the Imperial Economic Committee. Italy supplied 5,187 tons during the 1938 period and 6,655 tons during January and February of 1937.

United States canned tomato imports were the second largest, with 596 tons in January, 1938. During the first two months the United States supplied 625 tons, as compared with only 10 tons during the first two months of 1937.

Imports of canned tomato juice into the United Kingdom amounted to 5,080 cases from January 1 to March 26, 1938, of which Canada supplied 2,000 cases, the United States 1,410 cases, and other countries 1,670.

### British Canned Food Production Increases

The present output of canned foods in the United Kingdom has been put at 800,000,000 cans by rough trade estimates, as compared with an equally rough estimate of 28,000,000 cans in 1925, according to the Financial News (London) of April 6, 1938. No reliable statistics are available showing total or commodity production of canned foods. The present number of cannery plants is reported as over 200, compared with 74 in 1934 and 64 in 1935.

### Canned Fruit Imports into England Increase

Canned fruit arrivals at the principal British ports in the four weeks ending March 26, 1938, totaled 1,191,915 cases, according to the April report of the Imperial Economic Committee. This represents an increase of 527,419 cases, as compared with the preceding four weeks when 664,496 cases were imported. In the four weeks ending March 27, 1937, 980,320 cases were imported. Peaches, pears, and apricots from Australia, and canned oranges from Japan were the principal contributors to the seasonal increases.

### Canning in the Netherlands

The Netherlands canning industry is important and is increasing yearly if imports of tinplate can be taken as a guide. A wide variety of commodities are canned. Because of the growing local industry, importation of canned vegetables has

been declining for a number of years. Import statistics for the last five years show a decline in all canned vegetables with the exception of tomatoes, which are always plentifully supplied by Italy. The value of imports of all canned vegetables in containers weighing less than 5 kilograms (11 pounds) amounted to 212,000 guilders in 1937, compared with 481,000 in 1933.

Tomato juice is quite well known, having been first introduced from the United States and now being put on the market in pure and concentrated state by local firms. Canned corn is obtainable only in a few leading grocery and department stores, but does not seem to be making any headway and is not generally known.

### Lima Bean Variety Tests

Tests of new varieties of bush lima beans were carried on by the U. S. Department of Agriculture at Beltsville and Ridgely, Maryland, during 1937 and the information secured has recently been made public in a statement issued by the Department. The source and history of the varieties and strains is given in this publication, the experimental conditions under which the tests were made, and the principal plant and pod characteristics of these new varieties and strains summarized in a table. The varieties discussed are Maryland Thick Seeded, Illinois Large Podded, Illinois Baby Potato, Baby Fordhook, U. S. No. 2 and Henderson Bush. Information is also included on productiveness of the strains, maturity and size of shelled beans, and quality of the canned and frozen product. The statement is made in the circular that differences in flavor were not very great and considering the data from all sizes, both frozen and canned, it was concluded that all of these new small-seeded varieties and strains are equal if not slightly superior in quality to Henderson Bush.

### Asparagus Beetle Control

Spraying or dusting newly-planted asparagus beds and keeping old beds closely cut during the cutting season are control measures that growers should follow as a practical means of combating the asparagus beetle, according to information presented by the New York Agricultural Experiment Station at Geneva, in Circular 171 issued by that station. Formulas for sprays and dusts, for large and small acreages, are contained in this publication, copies of which may be obtained upon request directed to the Experiment Station. A brief description of the material contained in this circular is given on page 12 of the National Canners Association publication entitled "Agricultural Research Relating to Canning Crops: III".

### Yellows-Resistant Cabbage Tests

Control of cabbage yellows in New York State appears to be possible only through use of disease-resistant varieties, according to a recent news release from the New York Agricultural Experiment Station at Geneva. In order to test thoroughly strains now being used, as well as selections of new resistant types, the tests conducted by the station last year have been enlarged considerably for the coming season.

## CONSUMER INTEREST IN MERCHANDISING

### Factors That Should Determine Character of Educational Courses

The following excerpts from an address by James L. Fri before a conference on consumer education at Teachers College, Columbia University, on February 26th, will be of interest to all canners who have followed the development of the consumer education movement. Answering the question, now what in merchandising is of interest to the consumer, Mr. Fri said:

"Now what in merchandising is of interest to the consumer?"

"Profit, as the primary business incentive, is accepted by the average consumer in her 'natural state'. The average consumer in America has had contact with someone who has tried to run a retail store in one form or another and she has some idea of the difficulty in buying and selling for profit. The consumer today is not particularly interested in types of stores per se, nor in the profit they make. She wants certain things—merchandise and service; she is free through shopping to choose as she wishes; she compares what she gets in the form of service and goods, just as she compares the services of her gardener or servants. She is not interested ordinarily in how much money the people who work for her save out of what she pays them and, likewise, she is not interested in how much profit the retail store makes or which is the most profitable.

"Her interest, if any, in these matters comes from sources outside her normal relationships with merchandising and distribution as a consumer. Conflicts regarding the different types of stores, their advantages and disadvantages, whether they be independent stores, chain stores, department stores, mail order houses, or cooperatives, come to her from outside sources and, unfortunately, the ideas which she gets are all too often biased; they are intended and actually are propaganda influences.

"For example, to the extent that the so-called cooperative movement is a protest against waste and inefficiency on the part of different types of distributors, it may serve a very constructive purpose. To the extent, however, that it is a protest against the profit incentive in business enterprise, it is a destructive movement. As a protest against inefficiency it will appeal to one group but as a protest against profit, it will appeal to the more radical and more ignorant consumer mind and honest and efficient retailers will temporarily suffer.

"The duty and responsibility of those guiding the content of our courses in merchandising, economics, salesmanship, retailing, or by whatever name such courses are known in our school systems, begin and end with a simple explanation of the job, function or service of retailing.

"The major weakness in the present merchandising plan is that the customer doesn't realize, to the extent she should that she is paying both for the actual goods and service charges. She doesn't realize as she should that the services she wastes; the time of the salesperson in duplicating shopping; returned goods; damaged goods, unwarranted adjustments and the mark-downs that the store takes, are all in the overhead which she pays.

"The store and the customer are about equally responsible for the customer's misuse of the store's services. Competition in service and competition in being lenient when the services are misused have been the chief cause of the increased costs of distribution.

"It seems obvious that customers, at least a certain percentage of customers, will not be willing to give up these services. The only way that the costs can be decreased, therefore, is to make more efficient use of them.

"Now how much is the consumer actually interested in specifications or standards for merchandise?"

"The consumer that depends upon scales or percentages of this, that, or the other thing to give indications of value, will find herself buying technically 'correctly' but getting lesser values, unless she is, by instinct, intelligent enough to stick to the store that will go beyond the strict letter of the specifications as set up.

"To the extent that the consumer movement encourages or forces the retailer and manufacturer to improve quality it is a constructive movement and the consumer will profit. To the extent, however that consumer attempts to take over the determination of quality standards and give the producer the specifications and then to 'educate' customers to buy these specifications, the consumer movement is in for plenty of trouble."

## Marketing Association to Meet in Washington

The American Marketing Association will hold its 1938 midyear meeting in Washington, D. C., Friday and Saturday, May 20-21.

The meetings are being prepared primarily for business men in the distributive fields of American business, and will include such subjects as current trends in marketing, the current position of advertising media, and the value of marketing research.

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